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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

United States of America,
Plaintiff,

vs.

Daylon Bennett,
Defendant.

No.

**AMENDED
INFORMATION**

VIOS: 18 U.S.C. § 1349
(Conspiracy to Commit Health
Care Fraud)
Count 1

18 U.S.C. § 371
(Conspiracy to Defraud the
United States and to Solicit and
Receive Kickbacks)
Count 2

18 U.S.C. § 981(a)(1)(C);
18 U.S.C. § 982(a)(7)
28 U.S.C. § 2461;
(Forfeiture Allegations)

THE UNITED STATES ATTORNEY'S OFFICE CHARGES:

BACKGROUND

At all times relevant to this Information:

The Defendant and Related Individuals and Entities

1 1. Defendant DAYLON BENNETT was a resident of Phoenix, Arizona. From
2 in or around July 2023, through in or around August 2023, DAYLON BENNETT was a
3 sales representative for Apex Medical LLC ("Apex"). From in or around September 2023,
4 through in and around April 2024, DAYLON BENNETT was the Director of Sales for
5 Apex and Viking Medical Consultants LLC (d/b/a "Viking Medical Marketing LLC")
6 ("Viking").

7 2. Alexandra Gehrke was a resident of Phoenix, Arizona. Gehrke co-owned,
8 controlled, and operated Apex and served as its Chief Executive Officer. Alexandra Gehrke
9 solely owned, controlled, and operated Viking.

10 3. Jeffrey King was a resident of Phoenix, Arizona. King was a sales
11 representative for Apex. Jeffrey King was also a co-owner and managing partner of APX
12 Mobile Medical LLC ("APX").

13 4. Company 1 was a limited liability company formed under the laws of Texas,
14 with its principal place of business in Fort Worth, Texas. Company 1 was a wholesale
15 distributor of various amniotic wound allografts. Medicare reimbursed claims for allografts
16 distributed by Company 1 at an extremely high rate, exceeding \$1,000 per square
17 centimeter for certain allografts.

18 5. APX was a limited liability company formed under the laws of Arizona, with
19 its principal place of business in Phoenix, Arizona. APX was an enrolled Medicare provider
20 and submitted claims to Medicare for payment, including claims for the furnishing of
21 allografts purchased from Company 1.

22 6. Apex was a limited liability company formed under the laws of Arizona, with
23 its principal place of business in Phoenix, Arizona. Apex arranged for and recommended
24 the ordering and purchasing of allografts sold by Company 1. Apex also referred patients
25 to enrolled Medicare providers, including APX, for the furnishing of allografts purchased
26 from Company 1.

27 7. Viking was a limited liability company formed under the laws of Arizona,
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1 with its principal place of business in Phoenix, Arizona. Viking arranged for and
2 recommended the ordering and purchasing of allografts sold by Company 1. Viking also
3 referred patients to enrolled Medicare providers, including APX, for the furnishing of
4 allografts purchased from Company 1.

5 **The Medicare Program**

6 8. The Medicare program ("Medicare") was a federal health care program
7 providing benefits to persons who were 65 years of age or older or disabled. Medicare was
8 administered by the Centers for Medicare and Medicaid Services ("CMS"), a federal
9 agency under the United States Department of Health and Human Services ("HHS").
10 Individuals who received benefits under Medicare were referred to as Medicare
11 "beneficiaries."

12 9. Medicare was a "health care benefit program," as defined by 18 U.S.C. §
13 24(b), and a "Federal health care program," as defined by 42 U.S.C. § 1320a-7b(f), and
14 affected interstate commerce.

15 10. Medicare covered different types of benefits and was separated into different
16 program "parts." Medicare "Part A" covered, among others, health services provided by
17 skilled nursing facilities, hospices, and home health agencies. Medicare "Part B" covered,
18 among other things, medical items and services provided by physicians, nurse practitioners,
19 group practices, and other qualified health care providers, that were medically necessary
20 and ordered by licensed medical doctors or qualified health care providers.

21 11. Physicians, nurse practitioners, group practices, and other health care
22 providers (collectively, "providers") that provided items and services to beneficiaries were
23 able to apply for and obtain a "provider number." A provider that received a Medicare
24 provider number was able to file claims with Medicare to obtain reimbursement for items
25 and services provided to beneficiaries.

26 12. A Medicare claim was required to contain certain important information,
27 including: (a) the beneficiary's name; (b) a description of the health care benefit, item, or
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1 service that was provided or supplied to the beneficiary; (c) the billing codes for the benefit,
2 item, or service; (d) the date upon which the benefit, item, or service was provided or
3 supplied to the beneficiary; and (e) the name of the ordering, referring, or rendering
4 physician or other health care provider. The claim form could be submitted in hard copy or
5 electronically via interstate wire.

6 13. As a requirement to enroll as a Medicare provider, Medicare required
7 providers to agree to abide by Medicare laws, regulations, and program instructions.
8 Medicare further required providers to certify that they understood that payment of a claim
9 by Medicare was conditioned upon the claim and the underlying transaction complying
10 with these laws, regulations, and program instructions, including the Federal Anti-
11 Kickback Statute. Medicare paid for claims only if the items and services were medically
12 reasonable, medically necessary for the treatment or diagnosis of the patient's illness or
13 injury, accurately documented, and provided as represented to Medicare. Medicare would
14 not pay for items and services that were procured through illegal kickbacks or bribes.

15 14. Medicare covered access to certain bioengineered skin substitutes, including
16 some amniotic membrane allografts made from human placental tissue ("allografts").
17 These allografts were applied over open wounds to assist with wound closure or skin
18 growth. Medicare reimbursed providers for certain allografts furnished to Medicare
19 beneficiaries only if the allografts were medically reasonable, medically necessary for the
20 treatment or diagnosis of the beneficiary's illness or injury, accurately documented,
21 provided as represented to Medicare, and not procured through illegal kickbacks or bribes.

22 **TRICARE**

23 15. TRICARE was a federal health insurance program of the United States
24 Department of Defense ("DOD") Military Health System that provided coverage for DOD
25 beneficiaries worldwide, including active-duty service members, National Guard and
26 Reserve members, retirees, their families, and their survivors. The Defense Health Agency
27 ("DHA"), an agency of the DOD, was the governmental entity responsible for overseeing
28

1 and administering TRICARE.

2 16. TRICARE offered health insurance benefits for items and services that were
3 medically necessary. TRICARE reimbursed providers based on payment rates from
4 applicable fee and rates schedules. Generally, when a beneficiary was eligible for Medicare
5 and TRICARE, TRICARE was secondary to Medicare.

6 17. TRICARE was a “health care benefit program,” as defined by 18 U.S.C. §
7 24(b), and a “Federal health care program,” as defined by 42 U.S.C. § 1320a-7b(f), and
8 affected interstate commerce.

9 **Commercial Insurance Plans**

10 18. Commercial insurance plans were provided by private health insurance
11 companies (“Commercial Insurers”) that offered individual and group health benefit plans
12 under which individuals could obtain coverage for health care items and services.
13 Individuals who received benefits from Commercial Insurers were referred to as
14 “members.”

15 19. Commercial Insurers often made payments directly to providers, rather than
16 to members who received the health care benefits, items, and services.

17 20. To obtain payment for treatment or services provided to a member, providers
18 were required to submit itemized claim forms to the member’s commercial insurance plan.
19 The claim forms were typically submitted electronically. The claim form required certain
20 important information, including: (a) the member’s name and identification number; (b) a
21 description of the health care benefit, item, or service that was provided or supplied to the
22 member; (c) the billing codes for the benefit, item, or service; (d) the date upon which the
23 benefit, item, or service was provided or supplied to the member; and (e) the name of the
24 referring physician or other provider, as well as the applicable identification number for
25 the referring physician or provider.

26 21. When a provider submitted a claim to Commercial Insurers, the provider
27 certified that the contents of the form were true, correct, and complete, and that the form
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1 was prepared in compliance with applicable laws and regulations. The provider also
 2 certified that the items or services being billed were medically necessary and provided as
 3 represented.

4 22. Each of the Commercial Insurers was a “health care benefit program,” as
 5 defined in 18 U.S.C. § 24(b), and affected interstate commerce.

6 **COUNT 1**
 7 **18 U.S.C. § 1349**
 8 **(Health Care Fraud Conspiracy)**

9 23. The factual allegations in paragraphs 1 through 22 are incorporated by
 10 reference and re-alleged as though fully set forth herein.

11 24. Beginning in or around July 2023, and continuing through in or around April
 12 2024, in the District of Arizona and elsewhere, DAYLON BENNETT did knowingly and
 13 willfully combine, conspire, confederate, and agree with Alexandra Gehrke, Jeffrey King,
 14 individuals associated with Company 1, APX, Apex, and Viking, and other individuals and
 15 entities known and unknown to the United States, to execute a scheme and artifice to
 16 defraud Medicare, TRICARE, and Commercial Insurers, health care benefit programs
 17 affecting commerce, as defined in Title 18, United States Code, Section 24(b), and to
 18 obtain, by means of materially false and fraudulent pretenses, representations, and
 19 promises, money and property owned by, and under the custody and control of, said health
 20 care benefit programs, in connection with the delivery of and payment for health care
 21 benefits, items, and services, in violation of Title 18, United States Code, Section 1347.

22 **Purpose of the Conspiracy**

23 25. It was the purpose of the conspiracy for DAYLON BENNETT and others,
 24 known and unknown to the United States, to unlawfully enrich themselves by, among other
 25 things: (a) submitting and causing the submission of false and fraudulent claims to
 26 Medicare, TRICARE, and Commercial Insurers for items and services that were (i)
 27 medically unreasonable and unnecessary, (ii) ineligible for reimbursement, and (iii)
 28 procured through kickbacks and bribes; (b) concealing the submission of false and

1 fraudulent claims to Medicare, TRICARE, and Commercial Insurers and the receipt and
2 transfer of the proceeds from the fraud; and (c) diverting proceeds of the fraud for the
3 personal use and benefit of DAYLON BENNETT and his co-conspirators, and to further
4 the fraud.

5 **Manner and Means**

6 The manner and means used by Defendant DAYLON BENNETT and others,
7 individually and through the entities described above, to effect the object of the conspiracy
8 and scheme to defraud, included the following:

9 26. From approximately July 2023 through approximately August 2023,
10 DAYLON BENNETT, as a medically untrained sales representative with Apex, identified
11 elderly Medicare beneficiaries with a wound or wounds of any stage to which Company
12 1's allografts could be applied.

13 27. DAYLON BENNETT, based on his own assessment, ordered and arranged
14 for and recommended the ordering of Company 1's allografts to be applied to the patients'
15 wound(s). The allografts were procured through illegal kickbacks and bribes, medically
16 unnecessary, and ineligible for Medicare reimbursement.

17 28. DAYLON BENNETT referred the patients that he identified to Jeffrey King
18 and APX, who contracted with nurse practitioners to apply the allografts that DAYLON
19 BENNETT ordered and recommended to be ordered. APX billed Medicare for the
20 allografts applied to the patients and attendant services.

21 29. DAYLON BENNETT received unlawful kickbacks from Alexandra Gehrke
22 and Apex based on the quantity and sizes of Company 1's allografts that the nurse
23 practitioners applied to the patients and that APX billed to Medicare and TRICARE.

24 30. From approximately September 2023 through approximately April 2024,
25 DAYLON BENNETT, as the Director of Sales for Apex and Viking, trained Apex and
26 Viking sales representatives; authorized and directed Apex and Viking sales
27 representatives to order and arrange for and recommend the ordering of specific sizes and
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1 quantities of Company 1's allografts; conducted performance reviews with Apex and
2 Viking sales representatives; and mediated conflicts with health care facilities that
3 complained about APX, Apex, and Viking's involvement with their patients' medical
4 treatments.

5 31. DAYLON BENNETT received unlawful kickbacks from Alexandra Gehrke,
6 Apex, and Viking based on the total amount paid to APX by Medicare and TRICARE for
7 Company 1's allografts that were ordered and arranged for and recommended to be ordered
8 by all Apex and Viking's sales representatives.

9 32. From in and around July 2023 through in and around April 2024, DAYLON
10 BENNETT received approximately \$17,953,662 in illegal kickbacks from Alexandra
11 Gehrke, Apex, and Viking in exchange for ordering and arranging for and recommending
12 the purchasing and ordering of Company 1's allografts billed to Medicare and TRICARE,
13 and directing and authorizing the same.

14 33. From approximately July 2023 through approximately August 2023, APX
15 fraudulently billed Medicare approximately \$11,134,800 for Company 1's allografts that
16 DAYLON BENNETT ordered and recommended to be ordered that were applied by
17 APX's nurse practitioners to Medicare beneficiaries. Medicare paid APX approximately
18 \$8,907,840 based on those claims.

19 34. From approximately September 2023 through approximately April 2023,
20 APX billed Medicare, TRICARE, and Commercial Insurers approximately \$759,603,166
21 for Company 1's allografts that were ordered and recommended to be ordered by Apex and
22 Viking sales representatives under the management and supervision of DAYLON
23 BENNETT and applied by APX's nurse practitioners. Medicare, TRICARE, and
24 Commercial Insurers paid APX approximately \$427,029,309.39 based on those claims.

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26 ///

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COUNT 2
18 U.S.C. § 371
(Conspiracy)

35. The factual allegations in paragraphs 1 through 22 are incorporated by reference and re-alleged as though fully set forth herein.

36. Beginning in or around July 2023, and continuing through in or around April 2024, in the District of Arizona and elsewhere, DAYLON BENNETT knowingly and willfully agreed and conspired with Alexandra Gehrke, Jeffrey King, individuals associated with Company 1, APX, Apex, and Viking, and other individuals and entities known and unknown to the United States to: defraud the United States by impairing, impeding, obstructing, and defeating through deceitful and dishonest means the lawful government functions of IHS and CMS in their administration and oversight of Medicare, and DOD and DIA in their administration and oversight of TRICARE; and solicit and receive illegal kickbacks, in violation of 42 U.S.C. § 1320a-7b(b)(1).

Purpose of the Conspiracy

37. Paragraph 25 is incorporated by reference and re-alleged as though fully set forth herein as the purpose of the conspiracy.

Manner and Means of the Conspiracy

38. Paragraphs 26 through 34 are incorporated by reference and re-alleged as though fully set forth herein as the manner and means of the conspiracy.

Overt Acts

39. In furtherance of the conspiracy, and to effect the objects of the conspiracy, DAYLON BENNETT committed or caused to be committed various overt acts in the District of Arizona and elsewhere, including but not limited to the following:

40. On or about August 17, 2023, DAYLON BENNETT received an illegal kickback and bribe in the form of a check in the amount of \$123,768.00 that was drawn on Apex's bank account ending in 9686 and signed by Alexandra Gehrke, which he deposited into a bank account in the name of Solar Movement LLC.

1 Title 18, United States Code, Section 982(b), DAYLON BENNETT shall forfeit substitute
2 property, up to the value of the properties described above or identified in any subsequent
3 forfeiture bills of particular, if, by any act or omission of the defendant, the property cannot
4 be located upon the exercise of due diligence; has been transferred or sold to, or deposited
5 with, a third party; has been placed beyond the jurisdiction of the Court; has been
6 substantially diminished in value; or has been commingled with other property that cannot
7 be subdivided without difficulty.

8 Dated this 10th day of February, 2025.

9
10 GARY M. RESTAINO
United States Attorney
District of Arizona

11 Digitally signed by MATTHEW WILLIAMS
Date: 2025.02.10 11:06:50 -07'00'

12 Matthew Williams
Assistant U.S. Attorney

13 GLENN S. LEON
14 Chief
Criminal Division, Fraud Section
15 U.S. Department of Justice

16 SHANE BUTLAND Digitally signed by SHANE BUTLAND
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17 Shane Butland
Trial Attorney